

(755 ILCS 5/24-19) (from Ch. 110 1/2, par. 24-19)

Sec. 24-19. Administration of deceased ward's estate.) (a) Without order of appointment and until the issuance of letters testamentary or of administration or until sooner discharged by the court, a representative of the estate of a deceased ward has the powers and duties of an administrator to collect.

(b) When 30 days or such further time as the court allows have elapsed after the death of a ward, letters of administration may be issued to the person who was guardian of the estate of the deceased ward upon his petition therefor, unless a petition for letters has theretofore been presented to the court of the proper county, in which case the court shall first dispose of the pending petition before issuing letters to the representative. If letters of administration are issued to another on a petition filed, letters may not be issued to the person who was guardian.

(Source: P.A. 85-692.)

(755 ILCS 5/21-2) (from Ch. 110 1/2, par. 21-2)

Sec. 21-2. Investments; ward's estate.

(a) It is the duty of the representative to invest the ward's money. A representative is chargeable with interest at a rate equal to the rate on 90-day United States Treasury Bills upon any money that the representative wrongfully or negligently allows to remain uninvested after it might have been invested. Reasonable sums of money retained uninvested by the representative in order to pay for the current or imminent expenses of the ward shall not be considered wrongfully or negligently uninvested.

(b) Upon receiving the approval of the court, a representative may hold any investments, or any increase thereof, received by the representative at the time of the representative's appointment or acquired by the ward, although the investment is not otherwise authorized under this Act, and the court has power to direct the representative in connection therewith.

(c) A representative may invest only in the types of property specified in Sections 21-2.01 through 21-2.15.

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.01) (from Ch. 110 1/2, par. 21-2.01)

Sec. 21-2.01. Obligations of the United States.

(Source: P.A. 84-494.)

(755 ILCS 5/21-2.02) (from Ch. 110 1/2, par. 21-2.02)

Sec. 21-2.02. Obligations of which both the principal and interest are guaranteed unconditionally by the United States.

(Source: P.A. 84-494.)

(755 ILCS 5/21-2.03) (from Ch. 110 1/2, par. 21-2.03)

Sec. 21-2.03. Obligations of any corporation wholly owned, directly or indirectly, by the United States or any agency or instrumentality of the United States.

(Source: P.A. 84-494.)

(755 ILCS 5/21-2.04) (from Ch. 110 1/2, par. 21-2.04)

Sec. 21-2.04. Insured accounts, deposits, and certificates. Withdrawable capital accounts, deposits, investment certificates or certificates of deposit of state and federal savings and loan associations but, unless otherwise authorized by a court of competent jurisdiction, only to the extent that the accounts, deposits or certificates are insured by the United States or any of its agencies, and share accounts in federal and state credit unions if the credit unions are insured by the National Credit Union Administration. Amounts invested in a savings and loan association in excess of the amount insured by the United States or any of its agencies shall be secured by a surety bond taken from a surety authorized to transact business in this State in such sum, under such conditions, and with such security sufficient to save the estate from loss.

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.05) (from Ch. 110 1/2, par. 21-2.05)

Sec. 21-2.05. Municipal bonds. Instruments providing for the payment of money executed by or on behalf of any state of the United States or the District of Columbia or any governmental entity organized by or under the laws of any state of the United States or the District of Columbia, to carry out a public governmental or proprietary function, acting through its corporate authorities, or that any governmental entity has assumed or agreed to pay and that, at the time of investment, have been given one of the top 4 rating grades by a nationally recognized rating service.

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.06) (from Ch. 110 1/2, par. 21-2.06)

Sec. 21-2.06. Savings and time deposit certificates of a state bank or a national bank doing business in this State but, unless otherwise authorized by a court of competent jurisdiction, only to the extent that such deposits are insured by the United States or any agency thereof, even though the bank of deposit is the representative of the ward's estate. Amounts deposited in savings and time deposit certificates of such bank in excess of the amount insured by the United States or any agency thereof shall be secured

by a surety bond taken from a surety authorized to transact business in this State in such sum, under such conditions and with such security sufficient to save the estate from loss.

(Source: P.A. 83-1445.)

(755 ILCS 5/21-2.07) (from Ch. 110 1/2, par. 21-2.07)

Sec. 21-2.07. Notes secured by real estate. All of the notes secured by a first mortgage or trust deed upon improved or income producing real estate situated in this State and not exceeding two-thirds of the value thereof at the time of the investment.

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.08) (from Ch. 110 1/2, par. 21-2.08)

Sec. 21-2.08. Corporate obligations. Obligations of any company incorporated under the laws of the United States or of any state of the United States or the District of Columbia that, at the time of investment, have been given one of the top 4 rating grades by a nationally recognized rating service.

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.09) (from Ch. 110 1/2, par. 21-2.09)

Sec. 21-2.09. (Repealed).

(Source: P.A. 79-328. Repealed by P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.10) (from Ch. 110 1/2, par. 21-2.10)

Sec. 21-2.10. Real estate located in any state of the United States or the District of Columbia.

(Source: P.A. 79-328.)

(755 ILCS 5/21-2.11) (from Ch. 110 1/2, par. 21-2.11)

Sec. 21-2.11. Life, endowment, or annuity policies. Life, endowment, or annuity policies on the life of the ward, or on the life of any person in whose life the ward has an insurable interest, if the ward is the beneficiary, when the policies are issued by companies, associations or fraternal organizations that, at the time of investment, have been given one of the top 4 rating grades by a nationally recognized rating service. The order may authorize the payment of annual premiums without further application to the court.

(Source: P.A. 90-796, eff. 12-15-98; 91-357, eff. 7-29-99.)

(755 ILCS 5/21-2.12) (from Ch. 110 1/2, par. 21-2.12)

Sec. 21-2.12. Stock. Shares of any corporation with a market capitalization of over \$200,000,000 if the shares are listed and registered on an exchange registered with the Securities and Exchange Commission

as a national securities exchange or an electronic securities quotation system regulated by the Securities and Exchange Commission.

No investment in shares of a corporation may be made under this Section that, at the time such investment is made, would cause the market value of all stock held in the ward's estate to exceed two-thirds of the market value of the estate then held by the representative.

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.13) (from Ch. 110 1/2, par. 21-2.13)

Sec. 21-2.13. Common trust funds. Interests in one or more common trust funds, as defined in and from time to time established, maintained and administered pursuant to the Common Trust Fund Act, the investments of which are not restricted to the investments otherwise authorized for representatives by Sections 21-2.01 through 21-2.12 and 21-2.14 of this Act, provided that the investment in such common trust fund meets the standard of the prudent investor rule for the investment of trust funds.

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.13a) (from Ch. 110 1/2, par. 21-2.13a)

Sec. 21-2.13a. (Repealed).

(Source: P.A. 85-639. Repealed by P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.14) (from Ch. 110 1/2, par. 21-2.14)

Sec. 21-2.14. Mutual funds. Interests in any open-end management type investment company or investment trust (hereafter referred to as a "mutual fund") registered under the Investment Company Act of 1940, the investments of which are not restricted to the investments otherwise authorized for representatives in Sections 21-2.01 through 21-2.13 and 21-2.15, including without limitation a mutual fund that receives services from or pays fees to the representative or its affiliate, provided that the investment in the mutual fund or funds meets the standard of the prudent investor rule for the investment of trust funds. A representative or its affiliate is not required to reduce or waive its compensation for services provided in connection with the investment and administration of the estate because the representative invests, reinvests, or retains estate assets in a mutual fund for which it or its affiliate provides services and receives compensation if the total compensation paid by the estate as fees of the representative and mutual fund fees, including any advisory or management fees, is reasonable. However, a representative may receive fees equal to the amount of those fees that would be paid to any other party under Securities and Exchange Commission Rule 12b-1.

(Source: P.A. 89-344, eff. 8-17-95.)

(755 ILCS 5/21-2.14a)

Sec. 21-2.14a. Illinois prepaid tuition contract. An Illinois prepaid tuition contract, as defined under the Illinois Prepaid Tuition Act.

(Source: P.A. 91-867, eff. 6-22-00.)

(755 ILCS 5/21-2.15) (from Ch. 110 1/2, par. 21-2.15)

Sec. 21-2.15. Any other investments which from time to time have been or may be expressly declared by the General Assembly to be legal investments for representatives of wards' estates.

(Source: P.A. 84-494.)

(760 ILCS 5/5) (from Ch. 17, par. 1675)

Sec. 5. Investments.

(a) Prudent Investor Rule. A trustee administering a trust has a duty to invest and manage the trust assets as follows:

(1) The trustee has a duty to invest and manage trust assets as a prudent investor would considering the purposes, terms, distribution requirements, and other circumstances of the trust. This standard requires the exercise of reasonable care, skill, and caution and is to be applied to investments not in isolation, but in the context of the trust portfolio as a whole and as a part of an overall investment strategy that should incorporate risk and return objectives reasonably suitable to the trust.

(2) No specific investment or course of action is, taken alone, prudent or imprudent. The trustee may invest in every kind of property and type of investment, subject to this Section. The trustee's investment decisions and actions are to be judged in terms of the trustee's reasonable business judgment regarding the anticipated effect on the trust portfolio as a whole under the facts and circumstances prevailing at the time of the decision or action. The prudent investor rule is a test of conduct and not of resulting performance.

(3) The trustee has a duty to diversify the investments of the trust unless, under the circumstances, the trustee reasonably believes it is in the interests of the beneficiaries and furthers the purposes of the trust not to diversify.

(4) The trustee has a duty, within a reasonable time after the acceptance of the trusteeship, to review trust assets and to make and implement decisions concerning the retention and disposition of original pre-existing investments in order to conform to the provisions of this Section. The trustee's decision to retain or dispose of an asset may properly be influenced by the asset's special relationship or value to the purposes of the trust or to some or all of the beneficiaries, consistent with the trustee's duty of impartiality.

(5) The trustee has a duty to pursue an investment strategy that considers both the reasonable production of income and safety of capital, consistent with the trustee's duty of impartiality and the purposes of the trust. Whether investments are underproductive or overproductive of income shall be judged by the portfolio as a whole and not as to any particular asset.

(6) The circumstances that the trustee may consider in making investment decisions include, without limitation, the general economic conditions, the possible effect of inflation, the expected tax consequences of investment decisions or strategies, the role each investment or course of action plays within the overall portfolio, the expected total return (including both income yield and appreciation of capital), and the duty to incur only reasonable and appropriate costs. The trustee may but need not consider related trusts and the assets of beneficiaries when making investment decisions.

(b) The provisions of this Section may be expanded, restricted, eliminated, or otherwise altered by express provisions of the trust instrument. The trustee is not liable to a beneficiary for the trustee's reasonable and good faith reliance on those express provisions.

(c) Nothing in this Section abrogates or restricts the power of an appropriate court in proper cases (i) to direct or permit the trustee to deviate from the terms of the trust instrument or (ii) to direct or permit the trustee to take, or to restrain the trustee from taking, any action regarding the making or retention of investments.

(d) The following terms or comparable language in the investment powers and related provisions of a trust instrument, unless otherwise limited or modified by that instrument, shall be construed as authorizing any investment or strategy permitted under this Section: "investments permissible by law for investment of trust funds", "legal investments", "authorized investments", "using the judgment and care under the circumstances then prevailing that men of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to the speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital", "prudent man rule", and "prudent person rule".

(e) On and after the effective date of this amendatory Act of 1991, this Section applies to all existing and future trusts, but only as to actions or inactions occurring after that effective date.

(Source: P.A. 87-715.)

(755 ILCS 45/2-7) (from Ch. 110 1/2, par. 802-7)

Sec. 2-7. Duty - standard of care - record-keeping - exoneration.

(a) The agent shall be under no duty to exercise the powers granted by the agency or to assume control of or responsibility for any of the principal's property, care or affairs, regardless of the principal's physical or mental condition. Whenever a power is exercised, the agent shall act in good faith for the benefit of the principal using due care, competence, and diligence in accordance with the terms of the agency and shall be liable for negligent exercise. An agent who acts with due care for the benefit of the principal shall not be liable or limited merely because the agent also benefits from the act, has individual

or conflicting interests in relation to the property, care or affairs of the principal or acts in a different manner with respect to the agency and the agent's individual interests. The agent shall not be affected by any amendment or termination of the agency until the agent has actual knowledge thereof. The agent shall not be liable for any loss due to error of judgment nor for the act or default of any other person.

(b) An agent that has accepted appointment must act in accordance with the principal's expectations to the extent actually known to the agent and otherwise in the principal's best interests.

(c) An agent shall keep a record of all receipts, disbursements, and significant actions taken under the authority of the agency and shall provide a copy of this record when requested to do so by:

(1) the principal, a guardian, another fiduciary acting on behalf of the principal, and, after the death of the principal, the personal representative or successors in interest of the principal's estate;

(2) a representative of a provider agency, as defined in Section 2 of the Adult Protective Services Act, acting in the course of an assessment of a complaint of elder abuse or neglect under that Act;

(3) a representative of the Office of the State Long Term Care Ombudsman, acting in the course of an investigation of a complaint of financial exploitation of a nursing home resident under Section 4.04 of the Illinois Act on the Aging;

(4) a representative of the Office of Inspector General for the Department of Human Services, acting in the course of an assessment of a complaint of financial exploitation of an adult with disabilities pursuant to Section 35 of the Abuse of Adults with Disabilities Intervention Act;

(5) a court under Section 2-10 of this Act; or

(6) a representative of the Office of State Guardian **or public guardian** for the county in which the principal resides acting in the course of investigating whether to file a petition for guardianship of the principal under Section 11a-4 or 11a-8 of the Probate Act of 1975.

(d) If the agent fails to provide his or her record of all receipts, disbursements, and significant actions within 21 days after a request under subsection (c), the adult abuse provider agency, the State Guardian, the public guardian, or the State Long Term Care Ombudsman may petition the court for an order requiring the agent to produce his or her record of receipts, disbursements, and significant actions. If the court finds that the agent's failure to provide his or her record in a timely manner to the adult abuse provider agency, the State Guardian, the public guardian, or the State Long Term Care Ombudsman was without good cause, the court may assess reasonable costs and attorney's fees against the agent, and order such other relief as is appropriate.

(e) An agent is not required to disclose receipts, disbursements, or other significant actions conducted on behalf of the principal except as otherwise provided in the power of attorney or as required under subsection (c).

(f) An agent that violates this Act is liable to the principal or the principal's successors in interest for the amount required (i) to restore the value of the principal's property to what it would have been had the violation not occurred, and (ii) to reimburse the principal or the principal's successors in interest for the attorney's fees and costs paid on the agent's behalf. This subsection does not limit any other applicable legal or equitable remedies.

(Source: P.A. 98-49, eff. 7-1-13; 98-562, eff. 8-27-13; 98-756, eff. 7-16-14.)

(755 ILCS 45/2-9) (from Ch. 110 1/2, par. 802-9)

Sec. 2-9. Preservation of estate plan and trusts. In exercising powers granted under the agency, including powers of amendment or revocation and powers to expend or withdraw property passing by trust, contract or beneficiary designation at the principal's death (such as, without limitation, specifically bequeathed property, joint accounts, life insurance, trusts and retirement plans), the agent shall take the principal's estate plan into account insofar as it is known to the agent and shall attempt to preserve the plan, but the agent shall not be liable to any plan beneficiary under this Section unless the agent acts in bad faith. An agent may not revoke or amend a trust revocable or amendable by the principal or require the trustee of any trust for the benefit of the principal to pay income or principal to the agent without specific authority and specific reference to the trust in the agency. The agent shall have access to and the right to copy (but not to hold) the principal's will, trusts and other personal papers and records to the extent the agent deems relevant for purposes of this Section. This Section shall not apply to any Totten Trust, Payable on Death Account, or comparable trust account arrangement where the terms of such trust are contained entirely on the financial institution's signature card insofar as an agent acting under a power of attorney executed in accordance with this Act shall be permitted to withdraw income or principal from such account if the power of attorney grants the agent authority to conduct financial institution transactions on the principal's behalf and the agent's authority to access such account is not expressly limited or withheld in the agency.

(Source: P.A. 94-938, eff. 1-1-07.)

(755 ILCS 45/2-10) (from Ch. 110 1/2, par. 802-10)

Sec. 2-10. Agency-court relationship.

(a) Upon petition by any interested person (including the agent), with such notice to interested persons as the court directs and a finding by the court that the principal lacks either the capacity to control or the capacity to revoke the agency, the court may construe a power of attorney, review the agent's conduct, and grant appropriate relief including compensatory damages.

(b) If the court finds that the agent is not acting for the benefit of the principal in accordance with the terms of the agency or that the agent's action or inaction has caused or threatens substantial harm to the principal's person or property in a manner not authorized or intended by the principal, the court may order a guardian of the principal's person or estate to exercise any powers of the principal under

the agency, including the power to revoke the agency, or may enter such other orders without appointment of a guardian as the court deems necessary to provide for the best interests of the principal.

(c) If the court finds that the agency requires interpretation, the court may construe the agency and instruct the agent, but the court may not amend the agency.

(d) If the court finds that the agent has not acted for the benefit of the principal in accordance with the terms of the agency and the Illinois Power of Attorney Act, or that the agent's action caused or threatened substantial harm to the principal's person or property in a manner not authorized or intended by the principal, then the agent shall not be authorized to pay or be reimbursed from the estate of the principal the attorneys' fees and costs of the agent in defending a proceeding brought pursuant to this Section.

(e) Upon a finding that the agent's action has caused substantial harm to the principal's person or property, the court may assess against the agent reasonable costs and attorney's fees to a prevailing party who is a provider agency as defined in Section 2 of the Adult Protective Services Act, a representative of the Office of the State Long Term Care Ombudsman, the State Guardian, a public guardian, or a governmental agency having regulatory authority to protect the welfare of the principal.

(f) As used in this Section, the term "interested person" includes (1) the principal or the agent; (2) a guardian of the person, guardian of the estate, or other fiduciary charged with management of the principal's property; (3) the principal's spouse, parent, or descendant; (4) a person who would be a presumptive heir-at-law of the principal; (5) a person named as a beneficiary to receive any property, benefit, or contractual right upon the principal's death, or as a beneficiary of a trust created by or for the principal; (6) a provider agency as defined in Section 2 of the Adult Protective Services Act, a representative of the Office of the State Long Term Care Ombudsman, the State Guardian, a public guardian, or a governmental agency having regulatory authority to protect the welfare of the principal; and (7) the principal's caregiver or another person who demonstrates sufficient interest in the principal's welfare.

(g) Absent court order directing a guardian to exercise powers of the principal under the agency, a guardian will have no power, duty or liability with respect to any property subject to the agency or any personal or health care matters covered by the agency.

(h) Proceedings under this Section shall be commenced in the county where the guardian was appointed or, if no Illinois guardian is acting, then in the county where the agent or principal resides or where the principal owns real property.

(i) This Section shall not be construed to limit any other remedies available.

(Source: P.A. 98-49, eff. 7-1-13; 98-562, eff. 8-27-13; 98-756, eff. 7-16-14.)

(e) Notice to Agent. The following form may be known as "Notice to Agent" and shall be supplied to an agent appointed under a power of attorney for property.

755 ILCS 45/3-3(e)

"NOTICE TO AGENT

When you accept the authority granted under this power of attorney a special legal relationship, known as agency, is created between you and the principal. Agency imposes upon you duties that continue until you resign or the power of attorney is terminated or revoked.

As agent you must:

- (1) do what you know the principal reasonably expects you to do with the principal's property;
- (2) act in good faith for the best interest of the principal, using **due care, competence, and diligence**;
- (3) **keep a complete and detailed record** of all receipts, disbursements, and significant actions conducted for the principal;
- (4) **attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interest**; and
- (5) cooperate with a person who has authority to make health care decisions for the principal to carry out the principal's reasonable expectations to the extent actually in the principal's best interest.

As agent you must not do any of the following:

- (1) act so as to create a **conflict of interest** that is inconsistent with the other principles in this Notice to Agent;
- (2) do any act **beyond the authority** granted in this power of attorney;
- (3) **commingle** the principal's funds with your funds;
- (4) **borrow funds or other property from the principal**, unless otherwise authorized;
- (5) continue acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney, such as the death of the principal, your legal separation from the principal, or the dissolution of your marriage to the principal.

If you have special skills or expertise, you must use those special skills and expertise when acting for the principal. You must disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name "as Agent" in the following manner:

"(Principal's Name) by (Your Name) as Agent"

The meaning of the powers granted to you is contained in Section 3-4 of the Illinois Power of Attorney Act, which is incorporated by reference into the body of the power of attorney for property document.

If you violate your duties as agent or act outside the authority granted to you, you may be liable for any damages, including attorney's fees and costs, caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice from an attorney."